

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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OMAR MARTINEZ,

Petitioner,

-v-

SUPERINTENDENT MARK T. MILLER,

Respondent.
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23-cv-01281 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

The parties in this matter are currently scheduled to appear for a hearing before this Court on August 12, 2024 on the question of whether Petitioner delivered his state court 440.10 motion to the prison authorities for mailing on or before March 21, 2022. *See* Dkt. Nos. 24, 26.

The Office of the District Attorney has requested via letter, Dkt. No. 28, that *pro se* Petitioner Omar Martinez (“Petitioner” or “Martinez”) be produced virtually from Attica Correctional Facility for the August 12 hearing to streamline matters.

Rule 43(a) provides that a witness’s testimony at trial must be taken in open court but provides that “[f]or good cause in compelling circumstances and with appropriate safeguards,” testimony may be taken “in open court by contemporaneous transmission from a different location.” Fed. R. Civ. P. 43(a). The Court assumes, without deciding, that such rule applies to the hearing the Court has permitted in this matter.

Accordingly, Petitioner shall respond within 30 days of the date of this Order whether he consents to appearing remotely.

Respondent shall serve this order on Petitioner by July 5, 2024, and shall file proof of service on the docket.

SO ORDERED.

Dated: July 2, 2024
New York, New York



LEWIS J. LIMAN
United States District Judge